GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 17312 of Washington International School, pursuant to 11 DCMR § 3104.1, for a special exception under section 206 (Private Schools), to construct an addition of approximately 28,000 square feet to an existing building, consisting of a library, a theater and classroom space, and pursuant to 11 DCMR § 3103.2, for a variance under subsection 2117.4, from the requirement that each required parking space be accessible at all times directly from improved streets or alleyways via graded and unobstructed private driveways in the R-1-A District at premises 3100 Macomb Street, N.W. (Square 2084, Lot 837).

HEARING DATE: May 3, 2005
DECISION DATE: May 3, 2005

DECISION AND ORDER

This application was submitted on February 23, 2005, by the Washington International School, ("WIS" or "Applicant"), owner of the property that is the subject of the application ("subject property"). The Applicant seeks a special exception under section 206 of the Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations ("DCMR")) to construct an addition to an existing building which will consist of a library, a theater, and classroom space, and to expand an existing athletic field. The Applicant also seeks a variance from section 2117.4 to allow eight (8) stacked or tandem parking spaces within a structured parking area.

The Board held a public hearing on the application on May 3, 2005, and voted 4-0-1 to approve the variance and the special exception for the new construction. The Board did not approve the request to expand the athletic field because at the time of the hearing the Applicant did not own all the property into which the expansion is planned.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memorandum dated February 24, 2005, the Office of Zoning ("OZ") gave notice of the filing of the application to the Office of Planning ("OP"), the District Department of Transportation ("DDOT"), Advisory Neighborhood Commission ("ANC") 3C, Single Member District member 3C09, and the Council Member for Ward 3. Pursuant to 11 DCMR 3113.13, notice of the hearing was published in the *D.C. Register* (52 DCR 2726) and sent to the Applicant, all owners of property within 200 feet of the subject property, Advisory Neighborhood Commission ("ANC") 3C, OP, and DDOT. The Applicant properly posted the subject property regarding the application and public hearing and submitted an affidavit to the Board to this effect.

Requests for Party Status. ANC 3C, the ANC in which the property is located, was automatically a party to this case. There were no other requests for party status, but the Board received a letter in support on the application from the Friends of Tregaron Foundation, Inc.

("FOT"), a non-profit organization dedicated to preserving and protecting the Tregaron Estate, on which WIS is located.

Applicant's Case. The Applicant presented the testimony of three witnesses: David Cox, the architect for the project, Richard Hall, the headmaster of the Washington International School, and O.R. George, P.E., the Applicant's traffic consultant, who testified as an expert witness in traffic analysis. The Applicant also submitted an extensive and detailed private agreement between the Applicant . the FOT and the single member commissioner for ANC 3C -09 reflecting conditions the parties have agreed upon outside this case

Government Reports. The Office of Planning filed a report dated April 26, 2003 (sic, should be 2005) in support of the special exception and variance relief, subject to the following conditions: (1) an enrollment cap of 425 students and a faculty and staff cap of 102, (2) one-way on-site traffic, with access from Macomb St. and egress from Klingle Rd., (3) no simultaneous after-school events for more than 325 people unless non-neighborhood street parking and shuttle buses are provided, (4) no student or staff drop-off or pick-up on neighborhood streets, (5) lighting in parking areas should not adversely affect neighbors, (6) appropriate screening of parking areas, (7) after construction, no parking on lawns or planted areas, (8) non-athletic, non-WIS events restricted to the Mansion and limited to 45 per year, (9) non-athletic after 6:00 p.m. school events limited to 53 per year, (10) noise-producing events in the Arts & Athletic Building must conclude by 11:00 p.m., elsewhere on the property, such events shall be limited to 3 per year and they must end by 12:00 a.m. (with these 3 events included in the 53 non-athletic event limit), and (11) WIS must establish a liaison committee with the neighborhood to coordinate and enforce the private agreement between WIS, Friends of Tregaron, and the ANC 3C09 Commissioner.

DDOT submitted a report dated April 25, 2005 stating that the project will have no adverse traffic impacts on the area and accordingly, that it has no objection to the granting of the application.

On January 27, 2005, the Historic Preservation Review Board ("HPRB") adopted a staff report recommending conceptual approval of the project which is the subject matter of this application.

ANC Report. ANC 3C filed a report indicating that at a public meeting on April 18, 2005, with a quorum present, the ANC unanimously voted (8-0) to support the application for the special exception and variance, subject to the identical conditions set forth in the Office of Planning's Report, listed above.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. Washington International School is a private, co-educational day school that offers classes from nursery school through the twelfth grade. The school was founded in 1966 and has been located at the subject property since 1978, although currently only the middle and upper schools (grades six through twelve) are located at the subject property. The lower school is located on Reservoir Road, N.W.

2. The Applicant presently enrolls 425 students and proposes to retain the existing student cap of 425. (*See* Application No. 16189; Order dated February 24, 1997). Applicant presently employs 95 full-time equivalent faculty and staff at the subject property. Such number of FTE employees equates to no more than 102 total employees. The Applicant proposes no increase in the number of faculty or staff in conjunction with this project. (*See* Application No. 17082; Order dated February 13, 2004).

3. The subject property is located in an R-1-A zone district and has a premise address of 3100 Macomb Street, N.W. (Square 2084, Lot 837).

4. WIS covers a 6-acre portion of the 20.7-acre Tregaron Estate and is located in the area of highest elevation within the Estate.

5. The Tregaron Estate is bounded by Macomb Street on the north, Klingle Road to the east, Klingle and Woodley Roads to the south and private property to the west. The entrance to the subject property is on Macomb Street and egress is onto Klingle Road.

6. The subject property currently contains several buildings and facilities devoted to private school use, including the Tregaron Mansion, the Dacha, the Greenhouse, the Gardener's Cottage, the Middle School Building, the Carriage House, the Arts and Athletic Center and the Annex Building. The subject property also contains an athletic field and an outdoor basketball court.

7. The Tregaron Mansion and its grounds are a historic landmark and are listed on the National Register of Historic Places. Many features of the subject property, including the Greenhouse, the Gardener's Cottage, the Carriage House, the winding driveway, and its landscaped areas, contribute to defining the overall historic character of the Tregaron estate

8. The surrounding area is predominantly residential. To the north are single-family detached dwellings. To the southeast are multi-family dwellings. To the west are an embassy and another educational institution.

The Proposed Project.

9. The Applicant proposes to construct an addition of approximately 28,000 square feet to the Arts and Athletic Center and to expand the existing athletic field.[1] The addition will have two stories and one level below-grade. It will be built on the southern side of the Arts and Athletic Center, away from Macomb Street and toward the center of the subject property and will conform to the maximum height of 40 feet permitted under the Zoning Regulations.

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[1]At the time of the public hearing, the Applicant did not own all the land into which it proposed expanding the athletic field, nor did it have permission from the owner either for the expansion or to bring this application on the owner's behalf. Therefore, the Board excluded this portion of the Applicant's request from its application and this Order does not apply to the expansion of the athletic field.

10. The addition will house a library, an underground theater,10 new classrooms, 6 offices and 2 student lounges. The library will be located along the main walk of the campus, the classroom space will front the northern end of the athletic field and the theater will be located entirely underground. The new theater will seat an audience of 325.

11. The north side of the theater will lead to a covered parking area which is created by a fifteen foot (15 ft.) drop in the elevation from the southern to the northern side of the addition. This parking area will be accessible by vehicles via the service drive located on the northern side of the Carriage House and Middle School Building.

12. Seventeen (17) parking spaces will be provided within this covered parking area. Eight of such spaces will be located directly behind another eight parking spaces, creating a stacked or tandem parking arrangement.

13. Additionally, between the Carriage House and Arts and Athletic Center, above the below grade theater and the covered parking area, will be a second new parking area -- a parking deck -- that will be accessible via the main walk of the campus.

14. The Applicant entered into an agreement with FOT and the Commissioner of the affected Single-Member District, ANC 3C09, dated April 28, 2005. ("Agreement"). The Agreement addresses a wide range of issues of particular concern to FOT and ANC 3C 09 , including construction, traffic, parking, and storm water management, event limits, landscaping and the formation of a liaison committee to facilitate the agreement's implementation. The purpose of this agreement is to assure the preservation of the Tregaron Estate, the continued operation of the school in a manner that is consistent with its location in a residential neighborhood, and the stabilization of the surrounding community

Impact on Neighboring Properties.

15. The proposed addition will be located within the center of the subject property, substantially out of view from, and separated by a minimum of four hundred feet from, neighboring properties. The addition, like the existing WIS buildings, will be buffered from neighboring properties by landscaping and substantial tree cover.

16. The addition will conform to the requirements of the R-1-A zone district with respect to lot occupancy, height, bulk, and side and rear yards. It will be compatible with the fabric of the historic site and the residential neighborhood, with classic elements such as brick veneer facades with masonry back-up, pre-cast copings, and sloping roofs covered in synthetic slate tile.

17. The footprint of the addition has been kept to a minimum by placing it in such a way that the core elements already existing within the Arts and Athletics Center, such as bathrooms and elevators, will be used to service the addition. Further, the theater – potentially the most intrusive element of the addition, due to height and noise -- has been located entirely underground to minimize any impacts.

18. The height of the addition steps down a story and a half toward the Gardener's Cottage, so as not to overshadow that historic building.

19. The Applicant intends to provide necessary tree replacement and additional landscaping to aid in the integration of the addition into the subject property. This will include a retaining wall along the northern side of the service drive and new landscaping in this area to help shield the structured parking and parking deck from the view of Macomb Street residents. The façade of the parking deck will also include a wood trellis with plantings along its top to add a green edge.

20. There are presently 72 parking spaces on the subject property. Due to the construction of the theatre, with its assembly space of 325 seats, the Zoning Regulations require the Applicant to provide another 10 parking spaces. The Applicant has located 13 new parking spaces on the property, for a total of 85 spaces.[2]

21. Lighting to illuminate the parking deck and other parking areas will be arranged so that all direct rays of lighting are confined to the surface of the parking spaces.

22. No increase in student enrollment or staff is being requested and the Board agrees with the Applicant's traffic expert that the addition will have "little or no impact on the overall vehicle trip generation patterns to/from the campus." The Board finds that the project will have no significant effect on the area road network.

23. The addition will have no effect on the existing vehicular circulation on the subject property, which is a one-way pattern with an entrance from Macomb Street and an exit onto Klingle Road. Nor will it have any effect on student pick-ups and drop-offs, which currently take place by the Tregaron Mansion within the center of the subject property, whose long entrance drive provides sufficient space for any necessary queuing.

Parking Variance.

24. Section 2117.4 requires that each required parking space be "accessible at all times directly from improved streets or alleys or ... from improved streets and alleys via graded and unobstructed private driveways."

25. The Applicant is providing ample parking and more than that required by Chapter 21 of the Zoning Regulations to accommodate students, teachers, and visitors. Eight of the spaces, however, 7 of which are required, are not directly accessible from the campus access drive.

26. The subject property is irregular in shape and experiences steep slopes on its northern, southern, and eastern edges, restricting the area available for the location of parking spaces.

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[2]Two additional parking spaces are also required as a result of an increase of 3 staff members approved by the Board in Order No. 17082. Therefore, a total of 12 new spaces are required, and, at 13, the Applicant is providing one more space than is required.

27. The historic character of the Tregaron Estate and its significant tree cover also restricts the space available for parking. In particular, the open space surrounding the Mansion is protected from development due to its contribution to the mansion's historic vistas. The HPRB has requested that parking spaces located in front of the Mansion be removed so as to improve the views of the historic building when approaching from the driveway.

28. In order to maintain the historic relationship between the buildings and the landscape, the Applicant has avoided the protected areas and placed as many parking spaces as possible within the developed areas, thus creating the need for the stacked parking.

29. The stacked parking spaces are indirectly accessible from the access drive and will be used only by WIS employees. Although the Applicant anticipates that the stacked spaces will only be used during theatrical events, a system will be implemented to permit efficient movement of the vehicles if necessary.

30. The Board agrees with the Applicant's traffic expert that the variance to allow 8 stacked parking spaces will "not cause any adverse impacts to the adjacent on-street parking demand."

CONCLUSIONS OF LAW

Special Exception

The Board is authorized under Section 8 of the 1938 Zoning Act, (52 Stat. 797, 800; D.C. Official Code § 6-641.07(g)(2) (2001)) to grant special exceptions, as provided in the Zoning Regulations, where, in its judgment, the special exception will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps. *See* 11 DCMR § 3104.1. Certain special exceptions must also meet the conditions enumerated in the particular section pertaining to them. In this case, the Applicant had to meet both the requirements of § 3104.1 and § 206 of the Zoning Regulations.

The Applicant seeks a special exception to construct a new addition to an existing building for use by a private school in the R-1-A zone district at 3100 Macomb Street, N.W. (Square 2084, Lot 837). In accordance with Section 206, a private school must be located so that it is not likely to become objectionable to adjoining and nearby property because of noise, traffic, number of students, or otherwise objectionable conditions. 11 DCMR § 206.2. Ample parking space must be provided "to accommodate the students, teachers, and visitors likely to come to the site by automobile." 11 DCMR § 206.3. The Applicant must also demonstrate that the proposed private school use will be in harmony with the general purpose and intent of the Zoning Regulations and Maps. 11 DCMR § 3104.1. Because the private school is an existing private school that has been the subject of prior Board approvals, the foregoing standards are applied in the subject proceeding only to the proposed addition.

There was no evidence presented of any "objectionable conditions" anticipated as a result of the addition proposed by the Applicant. The addition is to be constructed and located on the subject

property in such a manner so as to assure compatibility with its residential neighborhood and to minimize any potentially adverse impacts, including noise. The Applicant has worked closely with the neighborhood and entered into an agreement to help ensure that no objectionable conditions arise. The Board agrees with the conclusion of the Applicant's traffic expert and DDOT that the proposed addition will have no adverse impacts on traffic and parking operations or levels of service within the area. Therefore, the Board concludes that the project is in harmony with the general purpose and intent of the Zoning Regulations and Maps and will not tend to affect adversely the use of neighboring property.

Variance

The Board is also authorized under Section 8 of the Zoning Act to grant variances from the strict application of the Zoning Regulations. Under the three-pronged test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the subject property is unique because of its size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property ; (2) the applicant will encounter exceptional practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variance will not result in substantial detriment to the public good or the zone plan. *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990).

The Applicant seeks relief from the requirement of § 2117.4 that all required parking spaces be directly accessible at all times from streets or alleys or from unobstructed private driveways.

. Applicant proposes to provide instead eight (8) stacked parking spaces, i.e., spaces requiring one vehicle to be removed before the vehicle in the "stacked" space can be moved. These eight (8) stacked parking spaces will be located within the covered parking area of the new addition.

The Tregaron Estate is unique in a combination of ways that give rise to the practical difficulty of providing the parking in accordance with the regulation. The steep topography of the subject property, its heavily wooded nature, and its protected historic character limit the area available for additional paving

The Board concludes that these factors result in an exceptional practical difficulty in meeting the requirements of § 2117.4 The stacked parking is a practical way of providing more on-site parking without disrupting the historic character of the subject property.

The requested variance will not result in detriment to the public good or the zone plan; to the contrary, the variance will result in the protection of the historic grounds. Further, as OP notes in its report, the impact of the variance is contained within the site and will have no adverse impact on the adjoining neighborhood.

Great Weight

The Board is required to give "great weight" to both the issues and concerns raised by the affected ANC and to the recommendation of the Office of Planning. *See,* D.C. Official Code §§ 1-309(d) and 6-623.04 (2001). Great weight means acknowledgement of the issues and concerns

of these two entities and an explanation of why the Board did or did not find their views persuasive. Both the ANC and OP recommended approval of the variance and special exception relief requested with conditions. After full deliberation of each and every recommended condition the Board declines to adopt the proposed conditions finding that each condition falls within one of the following categories: 1) The proposed conditions is unnecessary because it is already dictated by the Zoning Regulations or contained in previous orders relating to the Applicant ; 2) The proposed condition is beyond the Board's jurisdiction; or 3) the proposed condition relates to the use of the subject property, in general, but not necessarily to the proposed addition or the parking relief. With respect to the last category, the Board notes that these concerns are addressed in the private agreement between the Applicant, the Friends of Tregaron and the single member commissioner for ANC 3C 09.[3]

Conclusion

Based on the findings of fact, and having given great weight to the recommendations of OP and to the issues and concerns of the ANC, the Board concludes that the proposed addition and parking relief, as conditioned by the Board, can be located at the subject property so that it is not likely to become objectionable to adjoining and nearby property.

This Order pertains only to the construction of the new addition to the Arts and Athletic Center building and to the parking variance requested. All previous orders and conditions therein pertaining to the subject property remain in effect unless in conflict with this Order.

For the reasons stated above, the Board concludes that the Applicant has met its burden of proof with respect to the application for a special exception under § 206 and a variance from the requirements of § 2117.4. It is hereby **ORDERED** that the application is **GRANTED** subject to the following **CONDITIONS**:

1. The Applicant shall have flexibility to modify the design of elements of the proposed addition that do not impact zoning relief which are initiated by the Historic Preservation Review Board or the Mayor's Agent in compliance with D.C. Law 2-144, or by the Commission of Fine Arts.

2. Storm water collected from the new addition and parking areas shall be directed to, and contained in, the existing storm water retention system, which shall be expanded as necessary, and delivered to storm water facilities located under or near Macomb Street.

VOTE: 4-0-1 (Geoffrey H. Griffis, Ruthanne G. Miller, John A. Mann II, and John G. Parsons voting to approve with conditions; Curtis L. Etherly, Jr., not participating, not voting)

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[3]Neither the private agreement between the Applicant , FOT and the single member commissioner for ANC 3C 09, , nor the conditions contained therein, are incorporated into this Order.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT Each concurring Board member has approved the issuance of this Order.

ATTESTED BY: _____
JERRILY R. KRESS, FAIA
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 0 6 2005

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR. RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE

DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA APPLICATION NO. 17312

As Director of the Office of Zoning, I hereby certify and attest that on JUL 06 2005 a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Jacques B. Depuy, Esq.
Stephanie A. Baldwin, Esq.
Greenstein, Delorme & Luchs, P.C.
1620 L Street, N.W., Suite 900
Washington, D.C. 20036

Chairperson
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

Single Member District Commissioner 3C09
Advisory Neighborhood Commission 3C
2737 Devonshire Place, N.W.
Washington, D.C. 20008

Kathleen Patterson, City Councilmember
Ward Three
1350 Pennsylvania Avenue, N.W.
Suite 109
Washington, D.C. 20004

Faye Ogunneye, Acting Zoning Administrator
Building and Land Regulation Administration
Department of Consumer and Regulatory Affairs
941 N. Capitol Street, N.E.
Washington, D.C. 20002

Ellen McCarthy, Deputy Director
Office of Planning
801 North Capitol Street, N.E.
4th Floor
Washington, D.C. 20002

Alan Bergstein, Esq.
Office of the Attorney General
441 4th Street, N.W., 6th Floor
Washington, D.C. 20001

rsn

ATTESTED BY:

JERRILY R. KRESS, FAIA
Director, Office of Zoning